

ADVISORY OPINION 1998-012

Any advisory opinion rendered by the Registry under subsections (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered. KRS 121.135(4).

December 10, 1998

Hon. Fred E. Fischer
Fischer and Greene
Fourth Floor
713 West Main Street
Louisville, Kentucky 40202

Dear Mr. Fischer:

This is in response to your letter dated November 10, 1998 and received by the Registry on December 1, 1998, requesting an advisory opinion regarding the following question:

May a candidate expend funds remaining in a campaign fund, following an election, for an event for workers and volunteers following the inauguration of said candidate?

Allowable campaign expenditures are defined as “actual expenses, **made directly and primarily in support of or opposition to a candidate**, constitutional amendment, or public question.” KRS 121.175(1)(emphasis added). KRS 121.175(1) enumerates several specifically allowable expenditures from a campaign account, including “gifts and meals for volunteer campaign workers.” Therefore, an event rewarding volunteers for their service, whether preceding or following the election, is an allowable campaign expenditure.

However, as the expenditures enumerated by KRS 121.175(1) are not exhaustive, the Registry has promulgated regulations to specifically define those expenditures that

may lawfully be made under KRS 121.175(1). Pursuant to 32 KAR 2:200(2), expenditures made to defray the costs associated with an individual's performance of his official duties as an officeholder shall not be considered allowable expenditures. Therefore, a mayor's first introduction to his electorate in the form of an inaugural event may not be paid from his campaign account. Such an expenditure would not be "made directly and primarily in support" of his candidacy, but rather in his role as officeholder. It is the burden of the candidate to prove that an expenditure is directly and primarily related to his candidacy.32 KAR 2:200(3).

The content of your letter does not indicate which type of event your client seeks to sponsor. However, you indicated by telephone on December 9, 1998, that the event would be a "victory party" for campaign volunteers and supporters. A victory party for campaign volunteers and supporters, as a gift or meal to volunteers and in support of the candidacy of the event's sponsor, would constitute an allowable campaign expenditure.

Please note that if your client wishes to close his campaign account by expending the remaining funds, KRS 121.180(10) enumerates the following alternatives for the disposition of unexpended campaign funds: the candidate or campaign committee may (1) escheat the unexpended funds to the State Treasury; (2) return the funds pro rata to all contributors; (3) transfer the funds to the state or county executive committee of the candidate's political party; (4) retain the funds to seek the same office; or (5) donate the funds to a charitable, nonprofit or educational institution.

If you have any further questions, please do not hesitate to contact the Registry staff.

Sincerely,

Rosemary F. Center
General Counsel